

**IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.306 OF 2006

Ashwini A Kudtarkar & Anr .. Applicants
Vs
The State of Maharashtra, .. Respondent
Mr S.B.Shetye, for the applicants.
Mr U.V.Nikam, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 14th JUNE, 2006

P.C.:

1. Heard the learned counsel for the applicants and the learned APP for the respondent.

2. By this application, the applicant has challenged the order dated 20.10.2005, by which the application filed by the applicants under section 245 of Cr.P.C has been partly allowed and the accused are discharged under section 406 read with 34 of IPC and maintained the charge under section 420 read with 34 of IPC. The revision before the Sessions Court against the order impugned in the instant application is maintainable. In view thereof, this application is disposed of with liberty to the applicants to challenge the order dated 20.10.2005 in revision before the Sessions Court. If such revision is filed, same may be considered and decided in accordance with law and uninfluenced by the liberty granted by this

Court. Mr Shetye, learned counsel for the applicants at this stage invited my attention to the order (Exhibit-E) passed on the application filed by the APP (Exhibit-D) and submitted that the applicants may be given liberty to file another application under section 245 of Cr.P.C in the event the report of the investigating officer in pursuance of the order (Exhibit-E) passed on the application (Exhibit-D) under section 178 (8) is adverse to accused nos 1 and 2. It is always open for the accused to file application under section 245 of Cr.P.C seeking discharge. In such a situation, if the applicants file another application under section 245 Cr.P.C., same may be considered in accordance with law. The application is disposed of.

(D.B.BHOSALE, J.)